



# Department of Justice

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## ANTITRUST CHIEF ANNOUNCES LENIENCY POLICY FOR INDIVIDUALS

WASHINGTON, D.C. -- The Department of Justice's Antitrust Division said today it has instituted a new policy designed to encourage individuals to come forward with information regarding criminal antitrust violations.

Dubbed the "Individual Leniency Policy," the initiative expands the Corporate Leniency Policy established in August 1993.

Anne K. Bingaman, Assistant Attorney General in charge of the Antitrust Division said, "My hope is that this new policy will encourage individuals to come forth with evidence involving criminal antitrust violations."

In August 1993, Bingaman announced a new Corporate Leniency Policy which expanded the prior 1978 program to include companies which come to the Division to offer cooperation after an investigation has begun.

"We undertook this change to expedite our investigations and to use our resources in the most efficient manner possible. Since announcement of the new corporate policy, twelve companies

(MORE)

have offered to cooperate--one per month as compared to one per year under the previous policy," said Bingaman.

Prior to the policy change, corporations that disclosed their involvement in antitrust violations before the government's investigation while satisfying other requirements might, at the discretion of the Division, not be prosecuted. The policy change makes leniency available, at the Division's discretion, to corporations that come forward after the government investigation begins or to those that otherwise have failed to qualify for assured leniency.

"It is hoped the new Individual Leniency Policy will help the Division build more cases against antitrust violators as did the Corporate Leniency Policy," said Bingaman.

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# Individual Leniency Policy

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*August 10, 1994*



## LENIENCY POLICY FOR INDIVIDUALS

On August 10, 1993, the Division announced a new Corporate Leniency Policy under which a corporation can avoid criminal prosecution for antitrust violations by confessing its role in the illegal activities, fully cooperating with the Division, and meeting the other specified conditions. The Corporate Leniency Policy also sets out the conditions under which the directors, officers and employees who come forward with the company, confess, and cooperate will be considered for individual leniency. The Division today announces a new Leniency Policy for Individuals that is effective immediately and applies to all individuals who approach the Division on their own behalf, not as part of a corporate proffer or confession, to seek leniency for reporting illegal antitrust activity of which the Division has not previously been made aware. Under this Policy, "leniency" means not charging such an individual criminally for the activity being reported.

### A. Requirements for Leniency for Individuals

Leniency will be granted to an individual reporting illegal antitrust activity before an investigation has begun, if the following three conditions are met:

1. At the time the individual comes forward to report the illegal activity, the Division has not received information about the illegal activity being reported from any other source;

2. The individual reports the wrongdoing with candor and completeness and provides full, continuing and complete cooperation to the Division throughout the investigation; and

3. The individual did not coerce another party to participate in the illegal activity and clearly was not the leader in, or originator of, the activity.

#### **B. Applicability of the Policy**

Any individual who does not qualify for leniency under Part A of this Policy will be considered for statutory or informal immunity from criminal prosecution. Such immunity decisions will be made by the Division on a case-by-case basis in the exercise of its prosecutorial discretion.

If a corporation attempts to qualify for leniency under the Corporate Leniency Policy, any directors, officers or employees who come forward and confess with the corporation will be considered for leniency solely under the provisions of the Corporate Leniency Policy.

#### **C. Leniency Procedure**

If the staff that receives the request for leniency believes the individual qualifies for and should be accorded leniency, it should forward a favorable recommendation to the Deputy Assistant Attorney General for Litigation, setting forth the reasons why leniency should be granted. The staff should not delay making such a recommendation until a fact memo

recommending prosecution of others is prepared. The Deputy Assistant Attorney General for Litigation will review the request and forward it to the Assistant Attorney General for final decision. If the staff recommends against leniency, the individual and his or her counsel may wish to seek an appointment with the Deputy Assistant Attorney General for Litigation to make their views known. Individuals and their counsel are not entitled to such a meeting as a matter of right, but the opportunity will generally be afforded.

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